

In The Claims:

1. (Currently amended) A method to reduce transgene silencing in transgenic plants comprising the steps of:
 - a) constructing an artificial polynucleotide that is divergent from a known polynucleotide that encodes a substantially identical protein, and
 - b) constructing a DNA construct ~~containing~~ comprising said artificial polynucleotide molecule; and
 - c) transforming said DNA construct into a plant cell; and
 - d) regenerating said plant cell into a fertile transgenic plant,wherein said artificial polynucleotide and said known polynucleotide are divergent if less than 85 percent identical for their entire length and have no polynucleotide sequence lengths more than 23 nucleotides that have 100 percent identity and wherein said fertile transgenic plant comprises both said artificial polynucleotide and said known polynucleotide.
2. (Currently amended) ~~[[In the]]~~ The method of claim 1, wherein said known polynucleotide occurs naturally in said fertile transgenic plant.
3. (Currently amended) ~~[[In the]]~~ The method of claim 1, wherein said known polynucleotide occurs as a transgene in said fertile transgenic plant.
4. (Currently amended) ~~[[In the]]~~ The method of claim 1, wherein said artificial polynucleotide is expressed in said fertile transgenic plant.
5. (Currently amended) ~~[[In the]]~~ The method of claim 4, wherein said artificial polynucleotide provides an agronomically useful phenotype selected from the group consisting of: herbicide tolerance, insect resistance, drought tolerance, increased yield, cold tolerance, disease resistance.

6. (Currently amended) An artificial polynucleotide molecule ~~that is divergent from a known polynucleotide that encodes a substantially identical protein, said artificial polynucleotide molecule~~ is selected from the group consisting of: SEQ ID NO:3, SEQ ID NO:4, ~~SEQ ID NO:6, SEQ ID NO:7, SEQ ID NO:10, SEQ ID NO:13, SEQ ID NO:14, SEQ ID NO:17, and SEQ ID NO:18, SEQ ID NO:21, SEQ ID NO:22, and SEQ ID NO:35;~~ wherein ~~said artificial polynucleotide and said known polynucleotide are divergent if less than 85 percent identical for their entire length and have no polynucleotide sequence lengths more than 23 nucleotides that have 100 percent identity.~~
7. (Original) A DNA construct comprising: a promoter molecule that functions in plants, operably linked to said artificial polynucleotide molecule of claim 6.
8. (Original) A plant cell, plant or progeny thereof comprising the DNA construct of claim 7.
9. (Original) The plant or progeny thereof of claim 8, wherein said plant is selected from the group consisting of wheat, corn, rice, soybean, cotton, potato, canola, turf grass, forest trees, grain sorghum, vegetable crops, ornamental plants, forage crops, and fruit crops.
10. (Original) A plant cell comprising at least two polynucleotides, wherein said two polynucleotides encode a substantially identical protein and at least one of the polynucleotides is a transgene, and said polynucleotides are less than 85 percent identical in polynucleotide sequence for their entire length and have no polynucleotide sequence lengths more than 23 nucleotides that have 100 percent identity.
11. (Currently amended) A plant or progeny ~~[[of]]~~ thereof comprising said plant cell of claim 10 ~~comprising said two polynucleotides.~~
12. (Currently amended) ~~[[A]]~~ The plant or progeny thereof of claim 11, wherein said two polynucleotides encode for a herbicide tolerance protein.

13. (Currently amended) [[A]] The plant or progeny thereof of claim 12 comprising said herbicide tolerance protein, wherein said herbicide tolerance protein is selected from the group consisting of glyphosate resistant EPSPS and phosphinothricin acetyl transferase.
14. (Currently amended) A plant cell, plant or progeny thereof comprising ~~an~~ said artificial polynucleotide molecule of claim 6.
15. (Canceled)
16. (Currently amended) A DNA molecule comprising: a polynucleotide molecule that specifically hybridizes to [[an]] said artificial polynucleotide molecule of claim 6.
17. (Currently amended) [[A]] The DNA molecule of claim 16 wherein said polynucleotide molecule is selected from the group consisting of: SEQ ID NO:24, SEQ ID NO:25, SEQ ID NO:26, and SEQ ID NO:27.
18. (Currently amended) A plant cell, plant or progeny thereof comprising [[a]] said DNA molecule of claim 17 ~~selected from the group consisting of: SEQ ID NO:24, SEQ ID NO:25, SEQ ID NO:26, and SEQ ID NO:27.~~
- 19-22. (Canceled)
23. (Currently amended) A DNA detection kit comprising at least one DNA molecule of sufficient length to be specifically homologous or complementary to [[an]] said artificial polynucleotide of claim 6, wherein said DNA molecule is useful as a DNA probe or DNA primer.
24. (Currently amended) [[A]] The DNA detection kit of claim 23, wherein said comprising at least one DNA molecule is ~~homologous or complementary to a DNA molecule~~

selected from the group consisting of: SEQ ID NO:24, SEQ ID NO:25, SEQ ID NO:26, and SEQ ID NO:27.

25-27. (Canceled)

28. (New) The method of claim 1 wherein said artificial polynucleotide is selected from the group consisting of SEQ ID NO:3, SEQ ID NO:4, SEQ ID NO:7, SEQ ID NO:10, SEQ ID NO:17, and SEQ ID NO:18.
29. (New) A method to reduce transgene silencing in transgenic plants comprising the steps of:
- (a) obtaining said plant cell of claim 10; and
 - (b) regenerating said plant cell into a fertile transgenic plant.
30. (New) The method of claim 29, wherein said artificial polynucleotide and said known polynucleotide encode for a herbicide tolerance protein.
31. (New) The method of claim 30, wherein said herbicide tolerance protein is selected from the group consisting of glyphosate resistant EPSPS and phosphinothricin acetyl transferase.
32. (New) The method of claim 31, wherein said EPSPS is from maize, rice, soybean, or *Agrobacterium tumefaciens*.
33. (New) The method of claim 32, wherein said artificial polynucleotide is selected from the group consisting of SEQ ID NO:3, SEQ ID NO:4, SEQ ID NO:7, SEQ ID NO:10, SEQ ID NO:17 and SEQ ID NO:18.